

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EPICE CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	
)	Case 4:07CV00206 HEA
THE LAND REUTILIZATION)	
AUTHORITY OF THE)	
CITY OF ST. LOUIS, et. al.,)	
)	
Defendants.)	

**DEFENDANTS', THE CITY OF ST. LOUIS, MISSOURI AND THE LAND
REUTILIZATION AUTHORITY OF THE CITY OF ST. LOUIS, MISSOURI
MOTION FOR PRE-TRIAL CONFERENCE**

Comes now Defendants, the City of St. Louis, Missouri and the Land Reutilization Authority of the City of St. Louis, Missouri (hereinafter, "Defendants")¹, by their counsel, and for their Motion for Pre-Trial Conference, state the following:

1. This case is set for jury trial on February 16, 2010 concerning Count III of Plaintiff's Fourth Amended Complaint.
2. There are several outstanding issues whereby a Pre-Trial Conference would be beneficial, including pending motions in limine, proposed motions for leave to file summary judgment, with accompanying motion for summary judgment and proposed jury instructions.

¹ In the Court's December 4, 2009 Opinion, Memorandum, and Order (doc 145), the Court ordered that Defendants Motion for Summary Judgment was granted as to Counts I, II and IV and denied as to Count III. Count III of Plaintiff's Fourth Amended Complaint is a Missouri state law cause of action pursuant to Section 67.450, RSMo against solely the City of St. Louis, Missouri. (See Plaintiff's Fourth Amended Complaint, doc. 94, pgs. 22-24). As a result, Defendant, Land Reutilization Authority of the City of St. Louis, Missouri, is not part of Count III and of the February 16, 2010 trial involving Count III. However, Defendant, Land Reutilization Authority of the City of St. Louis, Missouri, joins in this Motion with the Defendant, City of St. Louis, Missouri.

3. In the Court's Opinion, Memorandum, and Order of December 4, 2009 (Doc. 145) (hereinafter, "Court's Order"), the Court ordered that Defendants' "Motion for Partial Summary Judgment [] is granted as to Counts I, II and IV and denied on Count III". (*Court's Order*, pg. 24)(Emphasis added). As a result, all that remains in the case that is set for trial is Count III of Plaintiff's Fourth Amended Complaint, which is a Missouri state law action against Defendant, City of St. Louis, pursuant to Section 67.450, RSMo for an alleged demolition of a fence the subject property.

4. However, Plaintiff is under the incorrect assumption that there are issues regarding Defendant, the Land Reutilization Authority of the City of St. Louis, Missouri, concerning LRA's having to pay "just compensation" to Plaintiff, Epice Corporation, even though the Court ruled in the Court's Order that upon the Sheriff's Sale of the Property to the LRA, the LRA owns the Property in fee simple title absolute. (Please see Plaintiff's Third Pre-trial Compliance Submission, doc. 160, pg. 3). In the Court's Order, citing Section 92.935.2, RSMo, the Court stated that the title to the real estate pursuant to the tax sale vests in the purchaser upon confirmation of such sale by the court in fee simple, and that those who "may have had any right, title, interest, claim, or equity of redemption in or to, or lien upon, such lands shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption, and the court shall order immediate possession of such real estate be given to such purchaser". (*Court's Order*, pg. 22). As the Court succinctly stated: "LRA, therefore, in a nutshell, has fee simple title." (*Court's Order*, pg. 22).

5. As a result, Defendants move the Court to conduct a Pre-Trial Conference.

WHEREFORE, Defendants, the City of St. Louis, Missouri and the Land Reutilization Authority of the City of St. Louis, Missouri, respectfully request the Court to schedule a Pre-Trial Conference and for all other relief this Court deems just and proper.

Respectfully submitted,

PATRICIA A. HAGEMAN,
CITY COUNSELOR

/s/ Robert M. Hibbs
Robert M. Hibbs #537348
Assistant City Counselor
Donald G. Dylewski #34218
Associate City Counselor
Attorneys for Defendants
Land Reutilization Authority
of the City of St. Louis and
the City of St. Louis
1200 Market, Room 314
St. Louis, MO 63103
622-3361 (Telephone)
622-4956 (Fax)

CERTIFICATE OF SERVICE

A copy of the foregoing was filed electronically on the 2nd day of February, 2010, with the Clerk of Court to be served by operation of the Court's electronic filing system upon all parties of record.

/s/ Robert M. Hibbs

Robert M. Hibbs #537348